

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
APR 29 P 1:50
U.S. DISTRICT COURT
DISTRICT OF MASS

EDWARD B. ELLIS
a/k/a ROCCO ELLIS

CIVIL ACTION
NO. 97-30085-REK

Movant

05 - 10910 REK

Referred to Ch MJ MB Boulton

EMERGENCY

**MOTION TO RELEASE MOVANT FOR TIME SERVED WITH NO
FURTHER FEDERAL COMMITMENTS AND TO VACATE MOVANT'S
CONVICTION FORTHWITH DUE TO TRIAL ATTORNEY'S PUBLIC
PRONOUNCEMENT IN FEDERAL COURT OF HIS SEVERE MENTAL
IMPAIRMENT AT TIME OF MOVANT'S TRIAL**

FACTS

1. Now comes the Movant, Rocco Edward Ellis (Ellis), who has been unjustly incarcerated for the past sixteen (16) YEARS for a "crime" he not only did not commit but for a crime that never took place.
2. In what follows this Honorable Court will clearly see a pattern of not only callous indifference by Ellis's trial attorney, Morris M. Goldings, that borders on the criminal but that he, Goldings, actually crossed that border.

OPINIONS & ORDERS

		<u>Page(s)</u>
1. Ellis v US, 313 F.3rd 636 (1 st Cir. 2002)	Appendix A	A1-A21
2. US v. Ellis, 935 F.2d 385 (1 st Cir. 1991)	Appendix B	B1-B21
3. Freedman J.'s Order dated 4/23/97	Appendix C	C1
4. Freedman J.'s Order dated 5/27/97	Appendix D	D1-D2
5. Freedman J.'s Order dated 6/11/97	Appendix E	E1
6. Freedman J.'s Order dated 12/10/97	Appendix F	F1
7. Freedman J.'s Memo & Order dated 03/02/98	Appendix G	G1-G48
8. Freedman J.'s Transfer Order dated 03/09/98	Appendix H	H1
9. Keeton J.'s Order dated 04/09/99	Appendix I	I1
10. Keeton J.'s Order Appointing Counsel 06/24/99	Appendix J	J1-J3
11. Keeton J.'s Memo & Order dated 06/08/01	Appendix K	K1-K23
granting Ellis' Motion for 2255 relief		
12. Government's Notice of Appeal 07/06/01	Appendix L	L1

FILING TO THE UNITED STATES SUPREME COURT

1. Writ of Certiorari dated May 19, 2003	Appendix M	M1-M45
--	------------	--------

Review Denied

HISTORY

1. In a travel of Ellis's case one will note that everyone has commented that Ellis had an outstanding lawyer at the time of his trial and appeal. That lawyer is now revealed as a felon and a man who has long suffered from a severe and debilitating mental illness. A rereading of the case will reveal a long, arduous journey by Ellis to this point in time. Ellis was convicted in 1989 for a crime which never happened.
2. Morris Goldings, Ellis's counsel for the trial, the lost appeal and the first approach to the United States Supreme Court was mentally diminished and unable to properly represent his client before, during and after his legal representation of Ellis.
3. Ellis asserted this fact in his 2255 in 1997. Ellis was not seen as credible then due to Goldings being held in high esteem by his peers and the judiciary. When reviewed *de novo*, Ellis's assertions are now seen in a new light.
4. Attorney Steven J. Brooks represented Goldings at Goldings' sentencing hearing on July 17, 2002. Goldings had been charged with stealing \$17 million from his clients between 1993 and 2000. "Goldings suffered from a personality disorder and clinical depression that for more than a decade clouded his judgment, Brooks said. 'Morris Goldings couldn't help himself.'" (From the Boston Globe article "Goldings Sentenced To 3 Years In Prison"; Thanassis Cambanis, Globe Staff; July 18, 2002.)
5. Ellis's trial was on May 9, 1990; Goldings clearly showed his mental health issues in his representation of Ellis on that date as well as before and after. The original date of trial was March 19, 1990; trial was postponed *on the same day* due to Goldings not being able to appear at trial. When the trial finally took place in May, Judge Freedman asked

Goldings how he was feeling. Goldings replied, "It was quite an episode." (Trial I; p24; 5/9/90) What was the true reason for the postponement? Drugs, aberrant liaisons?

6. Goldings, in the years *before* Ellis's arrest and trial, had a special relationship with Ellis - a relationship that crossed that of attorney/client and into that of "partners in crime" regarding Goldings' unorthodox handling of enormous amounts of cash and with Ellis as an assistant in Goldings' procuring and handling of pre-op male transsexual prostitutes. The relationship of Goldings and Ellis tainted any semblance of effective assistance of counsel. Goldings never should have represented Ellis. Ellis, however, thought they had a "friendship" and he (Ellis) would be professionally protected by Goldings - this highly reputed attorney. Goldings, with his hidden pathological behaviors, now had a most convenient vehicle to get "rid" of Rocco. Goldings performed ineffectively from start to finish - on purpose.
7. A review of Ellis's 2255 will show that Ellis asserted that Goldings was impaired in several areas. The entire 2255 is filled with countless examples of Goldings' failure to perform in all areas of representation, including, but not limited to, researching the facts of the case or interviewing or calling defense witnesses.

NOTE: Ellis's 2255 is replete with myriad examples of Goldings failing him. The 2255 filing, including its exhibits, is missing from federal archival records. Why? AUSA Christopher Alberto informed Diana Sandgren in late 2004 or early 2005 that most of the 2255 filing was missing with only a few pages in the official record. Sandgren supplied Christopher with her complete copy, including exhibits, which he duplicated at the close of one

of their meetings. The 2255 was extensive with the Motion of 135 pages and Exhibits of 325 pages. A complete copy of the filing is available through the Office of the United States Attorney or Diana Sandgren.

A. Please see 2255 Ground I: Ineffective Assistance of Counsel. Examples include:

1. Goldings failed to prepare for trial. Goldings did not interview *any* potential defense witnesses.
2. Goldings failed to perform at trial. Goldings called only one defense witness and that occurred only after Ellen Prager came to Goldings hotel room the morning of the day she was to testify. (2255; Exhibits; Affidavits pp110,111)

B. Please see 2255 Ground II: Conflict of Interest. Examples include:

1. Goldings gave Ellis an automobile in 1985.
2. Goldings gave Ellis \$125,000 in 1986.
3. Goldings gave Ellis approximately \$85,000.00 in **Client Account** checks between 1987 and 1989. (2255; pp60,61; Exhibits; Checks pp1-5)

NOTE: Goldings is currently serving a federal prison sentence for misappropriation of client account funds in the amount of \$17,000,000. Goldings' conviction involves the years between 1993 and 2000. Ellis did prove in his 2255 filed in 1997 that Goldings was guilty of misappropriation of client funds back to 1987 and before and Ellis presented canceled checks and bank statements as proof of that in his filing.

NOTE: Please see Ellis's Affidavit: N1-N4; Please see Sandgren's Affidavit: O1-O5.

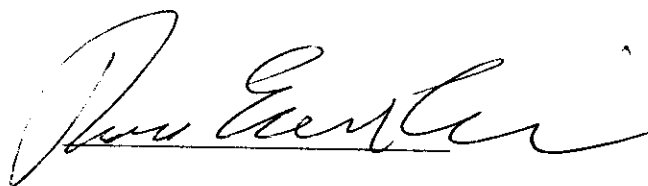
8. Statement of Jamie Edelkind is attached - both copies of his handwritten statement and the typed copy. (Please see Edelkind's Statement: Written: P1-P2; Typed: Q1-Q2)
9. Please note Number 5: "He (Goldings) related a personal story about one of his clients that could have 'put him away for life'. He helped insure that this man was convicted of a heinous crime and in such a manner, so that his federal time was served in a maximum 'out west' where it would be impossible for him to serve if he turned rat. I asked him if the man was in fact guilty. He said 'he might not have been guilty of the offense ... but he deserved the sentence because of things that I personall(y) (sic) know'. This man he stated was both an associate as well as a client. He said that he told investigators that this man had threatened his life, so that this coupled with the 'heinous crime' he was convicted of ruined his credibility."

CONCLUSION

Ellis is innocent of the crime that holds him incarcerated. He was "too close" to Goldings and the abhorrent false allegations made against Ellis during a heated child custody battle were a perfect vehicle for Goldings to get "rid of" his "problem". Goldings threw Ellis to the wolves - purposely. Ellis's innocence of his alleged crime and the ineffective assistance of counsel of Goldings have been proven in the vehicle of the 2255 and more. Now that Goldings is no longer held in the high esteem he once was, a review of all that has come before is warranted.

A review of the case demands the immediate reversal of conviction and the immediate freeing of Rocco Edward Ellis.

Submitted this 29th day of April, 2005

A handwritten signature in cursive script, appearing to read "Rocco Ellis", written in dark ink.

Rocco Edward Ellis

Federal Register # 90033-038
Norfolk County Correctional Center
200 West Street
Dedham, MA 02026



M. Goldings + R Ellis Sept. 1986

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Edward B Ellis aka Rocco Ellis

(b) County of Residence of First Listed Plaintiff

Norfolk

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Pro Se

DEFENDANTS

United States of America

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorney (If Known)

05 - 10910 REK

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff☒ 3 Federal Question
(U.S. Government Not a Party)☐ 2 U.S. Government Defendant☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State

☒ PTF
☒ DEFIncorporated or Principal Place
of Business in This State☐ PTF
☐ DEF

Citizen of Another State

☐ 2Incorporated and Principal Place
of Business in Another State☐ 5Citizen or Subject of a
Foreign Country☐ 3

Foreign Nation

☐ 6

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT

- ☐ 110 Insurance
☐ 120 Marine
☐ 130 Miller Act
☐ 140 Negotiable Instrument
☐ 150 Recovery of Overpayment
 & Enforcement of Judgment
☐ 151 Medicare Act
☐ 152 Recovery of Defaulted
 Student Loans
 (Excl. Veterans)
☐ 153 Recovery of Overpayment
 of Veteran's Benefits
☐ 160 Stockholders' Suits
☐ 190 Other Contract
☐ 195 Contract Product Liability
☐ 196 Franchise

TORTS

PERSONAL INJURY

- ☐ 310 Airplane
☐ 315 Airplane Product
 Liability
☐ 320 Assault, Libel &
 Slander
☐ 330 Federal Employers'
 Liability
☐ 340 Marine
☐ 345 Marine Product
 Liability
☐ 350 Motor Vehicle
☐ 355 Motor Vehicle
 Product Liability
☐ 360 Other Personal
 Injury

PERSONAL INJURY

- ☐ 362 Personal Injury -
 Med. Malpractice
☐ 365 Personal Injury -
 Product Liability
☐ 368 Asbestos Personal
 Injury Product
 Liability
PERSONAL PROPERTY
☐ 370 Other Fraud
☐ 371 Truth in Lending
☐ 380 Other Personal
 Property Damage
☐ 385 Property Damage
 Product Liability

FORFEITURE/PENALTY

- ☐ 610 Agriculture
☐ 620 Other Food & Drug
☐ 625 Drug Related Seizure
 of Property 21 USC 881
☐ 630 Liquor Laws
☐ 640 R.R. & Truck
☐ 650 Airline Regs.
☐ 660 Occupational
 Safety/Health
☐ 690 Other

BANKRUPTCY

- ☐ 422 Appeal 28 USC 158
☐ 423 Withdrawal
 28 USC 157

PROPERTY RIGHTS

- ☐ 820 Copyrights
☐ 830 Patent
☐ 840 Trademark

LABOR

- ☐ 710 Fair Labor Standards
 Act
☐ 720 Labor/Mgmt. Relations
☐ 730 Labor/Mgmt. Reporting
 & Disclosure Act
☐ 740 Railway Labor Act
☐ 790 Other Labor Litigation
☐ 791 Empl. Ret. Inc.
 Security Act

SOCIAL SECURITY

- ☐ 861 HIA (1395ff)
☐ 862 Black Lung (923)
☐ 863 DIWC/DIWW (405(g))
☐ 864 SSID Title XVI
☐ 865 RSI (405(g))

FEDERAL TAX SUITS

- ☐ 870 Taxes (U.S. Plaintiff
 or Defendant)
☐ 871 IRS—Third Party
 26 USC 7609

OTHER STATUTES

- ☐ 400 State Reapportionment
☐ 410 Antitrust
☐ 430 Banks and Banking
☐ 450 Commerce
☐ 460 Deportation
☐ 470 Racketeer Influenced and
 Corrupt Organizations
☐ 480 Consumer Credit
☐ 490 Cable/Sat TV
☐ 810 Selective Service
☐ 850 Securities/Commodities/
 Exchange
☐ 875 Customer Challenge
 12 USC 3410
☐ 890 Other Statutory Actions
☐ 891 Agricultural Acts
☐ 892 Economic Stabilization Act
☐ 893 Environmental Matters
☐ 894 Energy Allocation Act
☐ 895 Freedom of Information
 Act
☐ 900 Appeal of Fee Determination
 Under Equal Access
 to Justice
☐ 950 Constitutionality of
 State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

☐ 1 Original
Proceeding☐ 2 Removed from
State Court☐ 3 Remanded from
Appellate Court☐ 4 Reinstated or
Reopened☐ 5 Transferred from
another district
(Specify)☐ 6 Multidistrict
Litigation☐ 7 Appeal to District
Judge from
Magistrate
Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN
COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ NoVIII. RELATED CASE(S)
IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) Edward B Ellis aka
Rocco Ellis - Movant

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF CASE CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT. FILED
DISTRICT COURT
DISTRICT OF MASS
APR 29 P 1:50

II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, *Also complete AO 120 or AO 121 for patent, trademark or copyright cases

III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.

IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.

V. 150, 152, 153.

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.
97-30085 REK

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?

YES ☐ NO ☒

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)

YES ☐ NO ☒

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

N/A YES ☐ NO ☐

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?

YES ☐ NO ☒

7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).

YES ☒ NO ☐

A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?

EASTERN DIVISION ☒ CENTRAL DIVISION ☐ WESTERN DIVISION ☐

B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?

EASTERN DIVISION ☐ CENTRAL DIVISION ☐ WESTERN DIVISION ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Rocco Ellis 90033-038

ADDRESS Norfolk County Courthouse 202 West St. Dedham MA 0206

TELEPHONE NO. Contact name & telephone Diana Sandgren
781 444-9218